

**From:** Kasperek, Lauren [kasperek.lauren@epa.gov]  
**Sent:** 9/25/2018 5:44:51 PM  
**To:** Hurd, Kathy [Hurd.Kathy@epa.gov]  
**Subject:** RE: We need staff to review this

Hi Kathy,

Just checking back in on this with a few quick thoughts. I need to dive into comment world for the rest of the week, but I wanted to at least give you some feedback on this so we can keep talking about it.

Lauren

**Background on E.O. 13807**

**E.O. objective:** to streamline the Federal environmental review and decision process for new major infrastructure projects

- One aspect of the E.O. is the introduction of the “One Federal Decision” process. OFD requires one lead Federal agency to carry a project through all necessary environmental reviews/decisions with cooperating and participating Federal agencies. All agencies must follow one timetable and produce one ROD in a 2 year timeframe (goal).
- CEQ is charged with developing the necessary framework/guidance.

**E.O. Relationship to State/Tribal Programs and 404g**

# Ex. 5 Deliberative Process (DP)

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**How that may relate to E.O.:** A state that assumes 404 will not have to follow NEPA (as a state actor); but a Federal agency that leads a new major infrastructure project in an assumed state may need to comply with NEPA for other aspects of the project. The lead agency will need to consider the state permitting needs/action in their timetable. Similar to what I argued above, I would assume the OFD timeline will motivate the lead federal agency to coordinate with the state to use information developed in the 404 permitting process for NEPA purposes.

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**From:** Hurl, Kathy  
**Sent:** Friday, September 21, 2018 3:09 PM  
**To:** Kasparek, Lauren <kasparek.lauren@epa.gov>  
**Subject:** RE: We need staff to review this

## Ex. 5 Deliberative Process (DP)

Thanks, re the EO etc.

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**From:** Kasparek, Lauren  
**Sent:** Friday, September 21, 2018 3:06 PM  
**To:** Hurl, Kathy <Hurl.Kathy@epa.gov>  
**Subject:** RE: We need staff to review this

## Ex. 5 Deliberative Process (DP)

Let me dig through the E.O. and CEQ's 2017 notice and I'll get back to you asap.

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**From:** Hurl, Kathy  
**Sent:** Friday, September 21, 2018 2:05 PM  
**To:** Kasperek, Lauren <kasperek.lauren@epa.gov>  
**Subject:** RE: We need staff to review this

Thanks Lauren,

A few things for your info and then if you can think about the others.

- 1) EPA does not do NEPA on its own actions so there is no NEPA on approval of state/tribal programs.
- 2) NEPA is part of the (b)(1) guidelines and therefore as we will see in our reg revision we need to ensure a state/tribal program has similar protections/checks and balances provided by NEPA.

## Ex. 6 Personal Privacy (PP)

Thanks, Kathy

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**From:** Kasperek, Lauren  
**Sent:** Friday, September 21, 2018 1:58 PM  
**To:** Hurl, Kathy <Hurl.Kathy@epa.gov>  
**Subject:** RE: We need staff to review this

Hi Kathy,

It appears the EPA list is the same as the one currently listed in the CFR – nonetheless, some notes on the EPA one.

Re: 404g –

## Ex. 5 Deliberative Process (DP)

Re: state/tribal programs in general –

## Ex. 5 Deliberative Process (DP)

Let me know if that's not what you were looking for. Thanks! Happy Friday 😊  
Lauren

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**From:** Hurl, Kathy  
**Sent:** Friday, September 21, 2018 9:15 AM  
**To:** Kasperek, Lauren <kasperek.lauren@epa.gov>  
**Subject:** FW: We need staff to review this

Lauren, do you want to take a look at this with an eye towards how it may affect 404 g or even just state and tribal programs (assumed or not assumed). Thanks, Kathy

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**From:** McDavit, Michael W.  
**Sent:** Thursday, September 20, 2018 2:36 PM  
**To:** Downing, Donna <Downing.Donna@epa.gov>; Dils, Rebecca <Dils.Rebecca@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>  
**Subject:** FW: We need staff to review this

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**From:** Eisenberg, Mindy  
**Sent:** Thursday, September 20, 2018 1:20 PM  
**To:** Frazer, Brian <Frazer.Brian@epa.gov>; Kaiser, Russell <Kaiser.Russell@epa.gov>; Miller, Clay <Miller.Clay@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>  
**Subject:** We need staff to review this

Can you all forward as appropriate?

Thanks

Sent from my iPhone

Begin forwarded message:

**From:** "Nelson, Tomeka" <Nelson.Tomeka@epa.gov>  
**Date:** September 20, 2018 at 10:40:58 AM EDT  
**To:** "Eisenberg, Mindy" <Eisenberg.Mindy@epa.gov>, "Frazer, Brian" <Frazer.Brian@epa.gov>, "Bonanno, Gale" <Bonanno.Gale@epa.gov>, "Yusuf, Istanbul" <Yusuf.Istanbul@epa.gov>, "Wall, Tom" <Wall.Tom@epa.gov>  
**Cc:** "Chancey, Barbara" <Chancey.Barbara@epa.gov>, "Goodin, John" <Goodin.John@epa.gov>, "Connors, Sandra" <Connors.Sandra@epa.gov>, "Moore, Kristie" <Moore.Kristie@epa.gov>  
**Subject:** FW: Action Please: RSC Distribution: Action Item - CEQ Spreadsheet for EPA Review: "Categorical Exclusion List" - Comments Due COB 9/24

Please let me know if you have comments by COB 9/24. I have pasted a copy of the EPA list into the attached word file for easy access. Please note the overview briefing today at 3pm for anyone who is interested.

Attached for EO 12866 / 13563 interagency review and comment is a spreadsheet from CEQ entitled "***Categorical Exclusion List***."

**Summary/Background:** On August 15, 2017, President Trump directed the Council on Environmental Quality (CEQ) to develop within 30 days an **initial list of actions it would take to enhance and modernize the Federal environmental review and authorization process.**

On September 14, 2017, CEQ published an initial list of actions that identified a number of actions, including revising, modifying or supplementing its existing guidance on establishing, applying and revising categorical exclusions (CEs) under the National Environmental Policy Act (NEPA), with supporting information regarding established CEs. To assist

CEQ and Federal agencies in reviewing CEs, and to identify established CEs across all Federal agencies, CEQ has developed the attached comprehensive List of all CEs.

Under NEPA, Federal agencies, in consultation with CEQ, develop CEs for agency actions that they have found do not have a significant impact on the environment. Federal agencies' CEs cover a broad range of categories, including but not limited to administrative actions, operations and maintenance activities, research and information collection, emergency preparedness and response, and certain land management activities.

**Notes:** On **Thursday, September 20th at 3:00 pm ET**, CEQ will provide an overview briefing on the spreadsheet and answer any questions.

The call-in number is: **Ex. 6 Personal Privacy (PP)**

Many Thanks!

**Tomeka Nelson**  
**Senior Regulatory Manager**  
**Office of Wetlands, Oceans, and Watersheds**  
**Office of Water**  
**US Environmental Protection Agency**  
**202-566-1291**

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**From:** Evalenko, Sandy  
**Sent:** Wednesday, September 19, 2018 1:09 PM  
**To:** Flaharty, Stephanie <[Flaharty.Stephanie@epa.gov](mailto:Flaharty.Stephanie@epa.gov)>; Stebe, Katherine <[Stebe.Katherine@epa.gov](mailto:Stebe.Katherine@epa.gov)>; Nelson, Tomeka <[Nelson.Tomeka@epa.gov](mailto:Nelson.Tomeka@epa.gov)>; Ortiz, Agnes <[Ortiz.Agnes@epa.gov](mailto:Ortiz.Agnes@epa.gov)>  
**Cc:** Strassler, Eric <[Strassler.Eric@epa.gov](mailto:Strassler.Eric@epa.gov)>; Evalenko, Sandy <[Evalenko.Sandy@epa.gov](mailto:Evalenko.Sandy@epa.gov)>; Lousberg, Macara <[Lousberg.Macara@epa.gov](mailto:Lousberg.Macara@epa.gov)>; Ruf, Christine <[Ruf.Christine@epa.gov](mailto:Ruf.Christine@epa.gov)>  
**Subject:** Action Please: RSC Distribution: Action Item - CEQ Spreadsheet for EPA Review: "Categorical Exclusion List"

SRMs – Please review the attached "CEQ Spreadsheet for EPA Review: "Categorical Exclusion List" and send me comments by Tuesday, 9/25. Please call me and identify any comments that you may consider significant.

Thanks,  
Sandy

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**From:** InteragencyReviews  
**Sent:** Wednesday, September 19, 2018 12:36 PM  
**To:** RSC Core <[RSC\\_Core@epa.gov](mailto:RSC_Core@epa.gov)>; RSC Regions Core <[RSC\\_Regions\\_Core@epa.gov](mailto:RSC_Regions_Core@epa.gov)>  
**Cc:** Adamson, Joseph <[adamson.joseph@epa.gov](mailto:adamson.joseph@epa.gov)>; Atcherson, Aileen <[Atcherson.Aileen@epa.gov](mailto:Atcherson.Aileen@epa.gov)>; Corrales, Mark <[Corrales.Mark@epa.gov](mailto:Corrales.Mark@epa.gov)>; Curry, Bridgid <[Curry.Bridgid@epa.gov](mailto:Curry.Bridgid@epa.gov)>; Hardy, Michael <[Hardy.Michael@epa.gov](mailto:Hardy.Michael@epa.gov)>; Hessert, Aimee <[Hessert.Aimee@epa.gov](mailto:Hessert.Aimee@epa.gov)>; InteragencyReviews <[InteragencyReviews@epa.gov](mailto:InteragencyReviews@epa.gov)>; Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>; Knight, Kelly

<knight.kelly@epa.gov>; Leff, Karin <Leff.Karin@epa.gov>; Nickerson, William  
<Nickerson.William@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>

**Subject:** RSC Distribution: Action Item - CEQ Spreadsheet for EPA Review: "Categorical Exclusion List"

For comment by COB Thursday, 09/27.

These interagency review documents are deliberative and pre-decisional and may not be shared or discussed with anyone outside of the Executive Branch.

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**Summary/Background:** On August 15, 2017, President Trump directed the Council on Environmental Quality (CEQ) to develop within 30 days an initial list of actions it would take to enhance and modernize the Federal environmental review and authorization process.

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**Notes:** On **Thursday, September 20th at 3:00 pm ET**, CEQ will provide an overview briefing on the spreadsheet and answer any questions.

The call-in number is: **Ex. 6 Personal Privacy (PP)**.

In its transmittal message, OMB states that "Federal agencies should review their agency's National Environmental Policy Act (NEPA) regulations and procedures to ensure that the CE list in the attachment is current and complete. A URL to each agency's NEPA procedures and CEs is provided at the top of each tab in the attached spreadsheet."

### **Process Notes / Tips for Responding**

There is no strict response format, however, to facilitate compilation of the Agency's comments, please:

- use "Track Changes" (i.e., redline/strikeout and comment 'bubbles') to directly insert comments into the file(s) and
- for general comments/concerns/observations, add them to a new blank page inserted at the beginning of the file, or provide in a separate MSWord file.

Comments do not require documented management approval, but should represent the views of the commenting AA- / RA-ship.

Typically, an AA- / RA-ship with subject matter expertise takes the lead and coordinates preparation of the Agency's response when an interagency review gives rise to extensive comments, or comments from multiple offices. If no office volunteers to take the lead, OP will likely call on the commenting offices to work together to reconcile and compile their comments in order to ensure the commenters' input is not misinterpreted or misconstrued.

If the Agency has a big stake in the outcome, or its response is extensive and/or potentially controversial, the lead office may choose to draft a transmittal note for OP to use when submitting the comments to OMB.

Please submit comments via your Regulatory Steering Committee (RSC) Representative, or Regional Regulatory Contact (RRC), who should send them to the proxy mailbox, [InteragencyReviews@epa.gov](mailto:InteragencyReviews@epa.gov).

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**Stuart Miles-McLean | Interagency Review Coordinator**

Office of Regulatory Policy & Management | Office of Policy | Office of the Administrator

**202.564.6581** | 3512-U WJC North | Mail Code 1803 | 1200 Pennsylvania Avenue NW | Washington, DC 20460